## **Income Tax - Partnerships and S Corporations – Nonresident Members**

What is required of a partnership or S Corporation in regard to its nonresident partners or shareholders?

"In accordance with 39-22-601 C.R.S., a partnership or S-corporation is required to ensure that its nonresident partners or shareholders file a Colorado income tax return to report their share of Colorado source income. This is accomplished in one of three ways:

- 1. File a composite return on behalf of the nonresident shareholder/partners. Form 106 *Colorado State Partnership or S Corporation Return of Income and Composite Nonresident Income Tax Return.* Do not complete or submit Form DR 0107 or DR 0108 for any taxpayer included in a composite return.
- 2. File an "agreement to file and pay tax" for each nonresident shareholder/partners. DR 0107 *Colorado Nonresident Partner or Shareholder Agreement* must be attached to the Form 106. DR 0107 establishes that the taxpayer is required to file a Colorado income tax return, will report the Colorado source income and pay any Colorado tax due.
- 3. Withhold for each nonresident shareholder/partners. A separate DR 0108 *Statement of Colorado Tax Remittance for Nonresident Partner or Shareholder* must be attached to the Form 106.

Estimate payments cannot be passed-through to multiple partnerships or S-corporations. Rather, they must be paid directly on behalf of each individual nonresident partner or shareholder. A separate Form 108EP must be sent in for each partner or shareholder that will be filing a Colorado income tax return.

If the Form 106 has not been completed correctly, or the payments have not been correctly submitted, the non-resident shareholder/partners will experience problems when they attempt to file their Colorado income tax return.

To correct any errors in the filing of the Form 106, or the payments have an amended return must be filed. Mark the return "amended" at the top of the form to correct the original filing. Follow the procedure below:

- 1. Amend the original Form 106 to claim any monies paid incorrectly to the partnership's account.
- 2. In a separate envelope, you must submit a replacement DR 108 for each nonresident shareholder/partners and send a replacement check for all nonresident shareholder/partners with no more than 50 documents per check as required by processing.
- 3. The money paid incorrectly to the partnership account will be refunded once the amended return has been processed and the correct DR 108 forms have been filed for each of the nonresident shareholder/partners.